

Original: English

**FTAA - COMMITTEE OF GOVERNMENT REPRESENTATIVES ON THE PARTICIPATION
OF CIVIL SOCIETY**

COVER SHEET

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Country (ies) / Region (s)	The Hemisphere

Number of Pages	3	Language	English / Spanish
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ISSUES ADDRESSED (Check all that apply)

Agriculture		Subsidies, Antidumping and Countervailing Duties	
Competition Policy		Civil Society	
Dispute Settlement		Electronic Commerce	
Government Procurement		Smaller Economies	
Intellectual Property Rights	x	The FTAA Process	
Investment		Other:	
Market Access			
Services			

EXECUTIVE SUMMARY – 2 pages maximum – (see Open Invitation):

AGREED RECOMMENDATIONS

1. FTAA countries must emphasize the implementation of the TRIPs, including the dissemination of innovations and the transfer of technology.
2. Governments must adopt efficient measures to fight counterfeiting and piracy, including those for copyright and neighbouring rights.
3. Basic and common criteria should be established to define and protect well-known trademarks, as well as the scope of rights.
4. The agreement on intellectual property (IP) rights in the FTAA shall include provisions for copyright and neighbouring rights which incorporate the inherent aspects of new technologies.
5. For works protected by copyright, and objects protected by neighbouring rights, it is proposed to increase the term of protection to a minimum of seventy (70) years after the death of the author, and to seventy (70) years from the date of the first publication, fixation or making.
6. The IP offices of the region should strengthen their administrative capacity and should receive technical co-operation from international institutions.

FACILITATION MEASURES

1. Establish a financial assistance mechanism to assist small and medium-sized businesses to foster research activities and the sale and purchase of technological systems and components.
2. The countries of the hemisphere should compile information provided by institutions of intellectual property for integration in an international database. In this way better communication between national IP offices will help optimize existing resources.
3. The private sector and IP offices of the hemisphere should promote the knowledge and benefits of IP rights.

AREAS OF DIVERGENCE

1. Patentability for plants and animals

- (a) The principle of the non-patentability of plants and animals, except micro-organisms and the production procedures for plants and animals that are neither biological or microbiological, is consistent with the socio-economic reality of the hemisphere.
- (b) Eliminate the exclusion of patentability for plants and animals.

2. International exhaustion of IP rights

- a. Implement the principle of the international exhaustion of IP rights.
- b. International exhaustion of rights should be eliminated.

3. Experimental use of patented inventions

- a. Restrict the experimental use of a patented invention to prevent any commercial use.
- b. Provide for the experimental use of the patented invention for commercial purposes to facilitate the submission of requirements to obtain the proper authorizations from competent authorities.

4. Scope of an agreement on Intellectual Property Rights in the FTAA

- a. The negotiations of an agreement on IP rights should go beyond the provisions and obligations contained in TRIPs.
- b. The negotiations of an agreement on IP rights should not go beyond the provisions and obligations contained in TRIPs.

5. Requirements and procedures to get patent approval

- a. Requirements for granting patent in medical and agro-chemical products/processes should be independent from those required to obtain commercial authorizations.
- b. National authorities that grant commercial authorization for the exploitation of a product must, before processing such application, request concrete proof that the patent used has expired.

6. Dispute settlement

- a. Establish within FTAA adequate dispute settlement mechanisms for IP rights.
- b. Use the multilateral agreement mechanisms for dispute settlement to resolve IP conflicts.

7. Relationship between IP agreements and negotiations of commercial agreements

- a. Implementation of new IP legislation should be linked to the renegotiations on new subsidy policies in the developed countries.
- b. IP rights should not be used as a trade bargaining chip in the IP negotiation agreement.

8. Divergent positions on the following issues were raised for further attention:

- a. Protection of undisclosed information.
- b. Results of research undertaken by public institutions must be accessible without discrimination.
- c. Patentability of second use for products or processes.
- d. Take into account the enormous differences in the technological and productive capabilities within the region in the negotiation of an agreement for the Rights of Intellectual Property in the FTAA.

Chairperson: Ricardo Antequera Parilli (Venezuela)

Vice-Chairperson: Frederico Chiriboga (Ecuador)

Rapporteur: Michel Tapiero (Canada) Vice-Rapporteur: Miguel Maito (Argentina)

Note: If there is any discrepancy in the English text, the Spanish version is the true text.